

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JAMES M. MALARIK,)	
)	
Plaintiff,)	
)	
v.)	2:05-cv-1297
)	
PIARO FORTE and HERMAN MUKO,)	
)	
Defendants.)	

ORDER OF COURT

After review of the Complaint in Civil Action filed by *pro se* Plaintiff James M. Malarik, it appeared that Plaintiff and defendant Piaro Forte were both citizens of Beaver County, Pennsylvania, and therefore there was not complete diversity of citizenship among the parties to this action. Therefore, on July 7, 2006, the Court issued an Order to Show Cause which required Plaintiff to show cause why the action should not be dismissed for lack of complete diversity of citizenship between the parties. Document No. 10. In response thereto, Plaintiff filed his "Concise Statement of Good Cause and in Support of S.D.N.Y." Document No. 13. The filing is not particularly legible, coherent or responsive to the Court's Order to Show Cause, but it does say that the defendants in this case are "assumed to remain in Pennsylvania." Document No. 13 at unnumbered 2. While somewhat cryptic, the filing does contain enough information for the Court to find that it lacks subject matter jurisdiction over this case because either defendant Piaro Forte, or defendant Herman Muko, or both, reside in Pennsylvania, as does plaintiff Malarik. *See* 28 U.S.C. § 1332. An expression of Plaintiff's intent to at some time in the future relocate to New York does not satisfy jurisdictional requirements today.

NOW THEREFORE, this 24th day of July, 2006, it is **ORDERED** that Plaintiff's Complaint in Civil Action be and the same is hereby **DISMISSED WITHOUT PREJUDICE** to re-filing in an appropriate forum. The Clerk shall docket this case closed.

s/ Terrence F. McVerry
United States District Court Judge

cc: James M. Malarik/ BY U.S. MAIL
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PRO SE